

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA
2010 OCT 14 PM 3:22
JEANNE HICKS, CLERK
BY: B. Chamberlain ✓

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,)	No. P1300CR20081339
)	
Plaintiff,)	Div. 6
)	
vs.)	DEFENDANT'S OBJECTION TO
)	STATE'S LATE DISCLOSED
STEVEN CARROLL DEMOCKER,)	REBUTTAL WITNESSES AND
)	MOTION TO PRECLUDE
Defendant.)	
)	
)	

Steven DeMocker, by and through counsel, hereby respectfully objects to the State's late disclosure of rebuttal witnesses under Rule 15.1(h) and moves this Court to preclude the late disclosed witnesses. This motion is based on the Due Process Clause, the Fifth, Sixth, Eighth and Fourteenth Amendments and Arizona counterparts, Arizona Rules of Evidence, Arizona Rules of Criminal Procedure and the following Memorandum of Points and Authorities.

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The State's late disclosed list of rebuttal witnesses discloses 26 rebuttal witnesses and lists "[a]ll witnesses used in the State's case in chief." Providing this notice in the middle of trial, after over 20 days of testimony, in a case that has been pending for almost two years and had a trial date set a year in advance is clearly sanctionable. The State's innumerable failures to otherwise comply with disclosure requirements is fully developed in the record and need not be repeated. The State will have taken more than double the amount of time to present its case in chief that it originally advised the Court, the defense and the jury. It now proposes a rebuttal witness list that could take as long to complete as its case in chief.

In addition to preparing for the testimony of over 170 witnesses identified by the State's on its witness lists, the defense is now left, in the middle of trial, to prepare for additional newly disclosed witnesses. Some of these witnesses were precluded by prior order of Judge Lindberg and some have privileged relationships with Mr. DeMocker. All of this should have been litigated long ago if the State intended to call these witnesses as rebuttal witnesses.

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/ / /

1 This Court should preclude the State from calling any witness on the State's late
2 disclosed rebuttal witness list in its rebuttal case pursuant to Rule 15.7.

3 DATED this 14th day of October, 2010.

4
5 By: 

6 John M. Sears
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15 **ORIGINAL** of the foregoing hand delivered for
16 filing this 14th day of October, 2010, with:

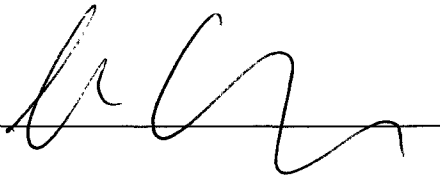
17 Jeanne Hicks
18 Clerk of the Court
19 Yavapai County Superior Court
20 120 S. Cortez
Prescott, AZ 86303

21 **COPIES** of the foregoing hand delivered this
22 this 14th day of October, 2010, to:

23 The Hon. Warren R. Darrow
24 Judge Pro Tem B
25 120 S. Cortez
Prescott, AZ 86303

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Joseph C. Butner, Esq.
Jeffrey Paupore, Esq.
Prescott Courthouse basket

A handwritten signature in black ink, appearing to be 'JC Butner', is written over a horizontal line.

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